Investigation of April 16, 2007 Critical Incident at VA Tech

Presented to
Behavioral Health Subcommittee
Joint Commission on Health Care

James W. Stewart, III
Inspector General - Mental Health, Mental Retardation & Substance Abuse Services

Investigation

- Purpose – formulate recommendations to improve response of community and MH system to individuals experiencing psychiatric emergency
- On-site May 24 and 25 and extensive follow up through June 9
- Primary focus - Services provided in connection with December 2005 temporary detention (TDO):
  - Local CSB
  - Psychiatric unit of local hospital
  - University counseling center

Focus of Investigation

- Examined compliance with requirements of VA Code re: TDO & commitment process
- Identified factors that may have supported or hindered success at each step of process
- Looked at procedural & systemic factors that enable or impede judge's access to information
- Identified factors that may have supported or impeded successful compliance with judge's order

Organization of Findings & Recommendations

- Availability of willing detention facility
- Collection and presentation of evidence and testimony to the judge or special justice
- Outpatient commitment
- Availability and access to services
  - Outpatient services
  - Case management

Compliance With Code

- Emergency custody/prescreening within 4 hours
- CSB prescreening thorough and resulted in prompt detention in appropriate facility
- Independent examination completed prior to hearing & required documentation provided
- Attorney appointed to represent individual
- Justice received required documents
- Time from TDO to hearing within 48 hours

Noncompliance With Code

- CSB failed to recommend specific course of treatment for the provision of involuntary outpatient treatment at the time of the commitment hearing
- Neither university counseling center nor CSB monitored compliance with court ordered treatment

Access to Willing Detention Facility

- 37.2-809 (B) A magistrate may issue, upon sworn petition of responsible person or upon his own motion and only after in-person evaluation by CSB, a temporary detention order if criteria are met.
- 37.2-809 (D) An employee of CSB shall determine the facility of temporary detention for all individuals detained.

Availability of Willing Detention Facility in New River Valley

- December 13, 2005 – CSB was able to locate available detention bed in local hospital with single phone call.
- However, both local CSB and VA Tech law enforcement personnel reported that more typically the CSB prescreener has significant difficulty locating bed in New River Valley area.
- Requires multiple calls to several facilities.

Availability of Willing Detention Facility Statewide

- 2005 OIG Review of Emergency Services
  - Almost all CSBs offer the most restrictive inpatient hospital services but few offer community crisis stabilization programs that effectively stabilize crisis situations in the community
  - 65% of staff and 51% of service recipients interviewed said lack of local inpatient beds for acute care was most significant emergency services need.
  - Almost all said greater availability of community crisis stabilization services would limit the demand for inpatient services.

Availability of Crisis Residential Crisis Stabilization Programs

- At time of 2005 OIG Review – 3 residential crisis stabilization programs in operation
- As result state budget initiatives – 12 residential crisis currently in place
- While progress has been made, most communities do not yet have ready access to these programs

OIG Recommendation: Crisis Stabilization

- Expand the number and capacity of secure crisis stabilization programs statewide
- Anticipated impact:
  - Expedite detention
  - Decrease number of times 4 hour ECO timeframe is inadequate
  - Save CSB personnel time
  - Save law enforcement personnel time
  - Decrease pressure on acute inpatient beds

Barriers to Collection & Interpretation of Evidence

- Four hours allowed for custody - no option to extend this period
- Clinical information from detention facility not always available to independent eval. and judge
- While 48 hours allowed for detention, not unusual for hearing to be held in less than 24 hours
- Inconsistent understanding among attending physicians re: access to collateral information
- Examinations by independent evaluator often brief
- No expectation that petitioner, CSB representative or other parties attend commitment hearing

OIG Recommendation

- Study of commitment process be conducted to determine changes necessary to facilitate collection and interpretation of critical collateral information
- Study include identifying changes required to not only assure protection and safety of individual but also enable engagement of individual so that journey of recovery is supported and facilitated.

Designation of Outpatient Treatment Provider

- There is no requirement in the Code that the judge or special justice designate in the court order specifically which agency or professional is to deliver the mandated outpatient treatment.
- Recommend that designation of specific provider in court order be required

CSB Attendance at Commitment Hearings

- The VA Code does not require CSB attendance.
- CSB attendance at commitment hearings is inconsistent across the state.
- Recommendations:
  - Determine barriers that prevent or complicate CSB attendance
  - Determine whether or not CSBs should be required to attend hearings, once barriers are addressed

Commitment Hearing Attendance

% of Hearings Attended	Number of CSBs	% of 40 CSBs
96-100%	16	40%
76-95%	4	10%
51-75%	1	2.5%
26-50%	2	5%
1-25%	8	20%
0%	9	22.5%

Commitment Hearing Attendance Type of CSB

	Number of CSBs in Group	Average Attendance for Group
Statewide	40	54.25%
Admin/Policy	10	82%
Operational	29	43.1 %
Advisory	1	100%

Commitment Hearing Attendance Urban/Rural CSB

	Number of CSBs in Group	Average Attendance for Group
Statewide	40	54.25%
Urban CSB	17	83.35%
Rural CSB	23	32.74 %

Barriers to Hearing Attendance

Barriers to Attendance	Number of CSBs	% of 40 CSBs
Limited staffing	19	48%
Travel distance within service area	8	20%
Hearing outside service area	10	25%

CSB Recommendation for Course of Treatment

- Code says, "CSB shall recommend specific course of treatment and programs for the provision of involuntary outpatient treatment."
- This responsibility is not carried out in many parts of the state.

CSB Recommendation for Course of Treatment

- All CSBs have already provided recommended discharge plan as part of prescreen documentation
- Factors that appear to contribute to failure to fulfill this responsibilty :
  - No requirement for courts to notify CSB of hearing
  - No requirement that CSBs receive independent evaluator's or attending physician's assessments
  - CSBs not required to attend commitment hearings
  - Confusion re: what is meant by course of treatment
- Recommendation: Clarify CSB responsibility to recommend course of treatment and programs

Responsibility for Monitoring Compliance with Court Order

- Code says, "The CSB, BHA or designated provider shall monitor the person's compliance with the treatment ordered by the court…"
- Code does not specify any responsibility for monitoring agent if individual fails to comply
- Recommendation: Clarify expectations for monitoring compliance with court order

Responsibility for Other Duties

- There is no clear indication regarding which party is responsible for:
  - Locating willing outpatient provider
  - Assuring provider understands responsibility to court
  - Arranging initial outpatient appointment
  - Providing court order to provider
- Recommendation – Determine whether duties are to be out by court or official agent of the court

Authority of Special Justice if Individual Does Not Comply

- Special justices and CSBs in communities are unclear regarding the authority of the special justice to hold another commitment hearing for individual who fails to comply unless there is clear evidence that new behaviors that meet TDO or commitment criteria are currently present.

Authority of Special Justice When Individual Does Not Comply

- OIG Recommendation: Clarify in the VA Code the criteria that must be met for the judge or special justice to hold a second commitment hearing when the person fails to comply with an earlier order to outpatient treatment.

Access to Outpatient Services

- Extremely limited outpatient treatment capacity in New River Valley area per CSB, local hospital and VT counseling center
  - Counseling/therapy usually by licensed masters/doctoral level staff
  - Psychiatric services by psychiatrist, nurse practitioner or other medical personnel
- Consistent with three earlier statewide OIG reviews of CSB services: emergency, case management, and substance abuse

CSB Average Wait Time for MH Outpatient Services

	Adults (days)	Children (days)
Clinician	30.22	37.42
Clinician Post emergency	13.54	16.50
Psychiatrist	28.16	30.36
Psychiatrist Post emergency	13.54	15.46

CSB Outpatient Staff FTEs Per 50,000 Population

Staff FTEs per 50,000 pop	Adults	Child/Adoles.
0 FTEs No Service	2 (5%)	1 (2.5%)
.01 to 1 FTEs	11 (27.5%)	11 (27.5%)
1.01 to 2 FTEs	12 (30%)	22 (55%)
2.01 to 3 FTEs	6 (15%)	4 (10%)
3.01 to 4.00	3 (7.5%)	2 (5%)
4.01+	6 (15%)	

Change in CSB OP Capacity Over Past 10 Years

	Adults #/% of CSBs	**Child/Adoles. #/ of CSBs**
Increased capacity	7 (17.5%)	15 (37.5%)
Decreased Capacity	24 (60%)	22 (55%)
No Change	9 (22.5%)	3 (7.5%)

Explanations for Decreased CSB Outpatient Capacity

- Diversion of funding and staff to populations identified as priority by DMHMRSAS
  - Those with long-term mental illness
  - Those ready for discharge from state hospitals
- Decrease in funding from one or more sources
- Static funding from one or more sources

Impact of Limited OP Capacity

- Often not possible to prevent crises
- Individuals seeking service lose interest and fail to follow through
- Staff have limited time to follow up on those who drop out
- Not possible to meet the needs of the court for outpatient commitment
- Court ordered treatment will cause delays for those who seek treatment voluntarily

OIG Recommendation: Outpatient Services

- Determine level of outpatient service capacity required to adequately and appropriately respond to court ordered and voluntary referrals. Expand services statewide for adults and children.

Access to Case Management

- 2006 OIG review of MH case management
  - Average caseload in VA was 39 compared to nationally recommended caseload of 25.
  - Caseloads ranged from 20 to 71.5
  - 92.5% of CSBs had average caseloads that exceeded 25
  - CSBs estimate that approximately 230 additional case managers are needed

OIG Recommendation: Case Management

- Increase number of case managers to decrease caseloads and increase support to those with serious mental illness and those who receive treatment services involuntarily
- Anticipated impact:
  - Crisis situations will be prevented for those with more serious mental illness
  - Ability to monitor those in service will be enhanced

Summary

- Expand number and capacity of crisis stabilization programs
- Modify commitment process to:
  - Facilitate collection/interpretation of critical collateral information
  - Enable engagement of individual so that journey of recovery is supported and facilitated
- Clarify and improve outpatient commitment
- Expand outpatient treatment capacity
- Lower case management caseloads